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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ITW 12221 [MG99-21]

Applicant: Plourde et al. Examiner: Eugene Lee Kim
Serial No.: 09/523,338 Art Unit: 3721
Filed: March 10, 2000
For: PERPENDICULAR PERFORATION ON ZIPPER TAPE
FOR AIR EVACUATION OF PACKAGE

TRANSMITTAL OF APPEAL BRIEF

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SIR:

Enclosed is an original brief to the Board of Patent Appeals and Interferences and three photocopies thereof. This brief is being filed pursuant to the Notice of Appeal apparently accorded an Office filing date of February 9, 2004. The Rule 17 fee for filing an appeal brief is enclosed. Any other fees may be charged to Deposit Account 50-1145, Order No. 769-254.

Respectfully submitted,

Gerald Levy
Registration No. 24,419

Ronald E. Brown
Registration No. 32,200

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Pitney Hardin LLP
685 Third Avenue
New York, New York 10017
212-297-5800

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Before the Board of Patent Appeals and Interferences

Application Serial No. 09/523,338

Filed: March 10, 2000

Art Unit: 3721

Examiner: Eugene Lee Kim

PERPENDICULAR PERFORATION ON ZIPPER TAPE
FOR AIR EVACUATION OF PACKAGE

Ex parte: Eric P. Plourde
John H. Schneider

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BRIEF FOR THE APPELLANTS

Pitney Hardin LLP
Attorneys for the Appellants

I. REAL PARTY IN INTEREST

The real party in interest is assignee Illinois Tool Works Inc.

II. RELATED APPEALS AND INTERFERENCES

None

III. STATUS OF CLAIMS

Claims 1-5 and 11 are rejected.

IV. STATUS OF AMENDMENTS

No after-final amendments were filed in response to the final Office Action of November 7, 2003. A Notice of Appeal was dated February 4, 2004, with a return postcard indicating an Office filing date of February 9, 2004.

V. SUMMARY OF INVENTION

The claimed invention is a method for providing a line of through vent apertures (Fig. 2, element 103) to a web component (Fig. 2, element 10) of a plastic bag, the web component having a tendency to tear along lines of apertures, comprising the steps of providing a cutter (Fig. 2, element 100) which cuts a line of vent apertures along a first direction (paragraph bridging pages 4 and 5), the vent apertures being oriented in a second direction which is not parallel to the first direction such that the orientation of the line of vent apertures minimizes tear propagation of the web component (page 3, last paragraph); providing an anvil means (Fig. 2, element 200) against which the cutter bears, thereby creating a nip (page 4, penultimate line); and drawing the

web component through the nip formed between the cutter and the anvil means thereby forming the line of vent apertures in the web component (sentence bridging pages 4 and 5); wherein the vent apertures provide ventilation to the interior of the plastic bag when the web component is attached to the plastic bag (page 5, lines 16-20).

VI. ISSUE

Are Claims 1-5 and 11 patentable under 35 U.S.C. §103(a) over the Wendt reference (U.S. Patent No. 2,689,678) in view of applicants' alleged admitted prior art?

VII. GROUPING OF CLAIMS

Claims 1-4 and 11 stand together as a first group.

Claim 5 stands as a second group.

VIII. ARGUMENT

Are Claims 1-5 and 11 patentable under 35 U.S.C. §103(a) over the Wendt reference (U.S. Patent No. 2,689,678) in view of applicants' alleged admitted prior art?

With respect to Claims 1-4 and 11 and Claim 5

The alleged admission of prior art appears to be nothing beyond a round wheel with raised teeth around its periphery to cut slits with are colinear line segments to create a predetermined tear line area across a sheet media (see page 1, printed lines 9-10 and 21-23). Such a prior art apparatus uses teeth which are perpendicular to the axis of rotation of the round wheel (see Figure 1). Apertures for tear lines are different from apertures to provide ventilation

through which selected solids cannot pass (page 2, lines 2-19) and through which tear propagation is preferably minimized.

The Wendt reference discloses a bag which is formed in a completely different manner than the presently claimed method. The Wendt reference discloses a bag wherein slits are formed with a preheated cutting knife (see element 9, Figure 4 and col. 3, lines 25-32) which is completely different from the claimed method. There is no teaching or suggestion in the prior art to combine the Wendt reference with the alleged admitted prior art in such a way as to obtain the presently claimed invention.

In particular, there is no disclosure in cited prior art of “providing a cutter which cuts a line of vent apertures along a first direction, said vent apertures being oriented in a second direction which is not parallel to said first direction such that the orientation of said line of vent apertures minimizes tear propagation of said web component” as recited in Claim 1. Further, the combination of the prior art does not suggest the above-quoted language.

With respect to the group including Claim 5

Claim 5 recites that “said web component is a zipper tape”. Neither the alleged admitted prior art or the Wendt reference discloses a zipper tape. The final Office Action of November 7, 2003 references the Office action of July 22, 2003 which states merely “Regarding claim 5, it is well known in the art to use zipper tape means.” It is respectfully submitted that this statement has no tie to the cited prior art and no specific use of “zipper tape means” is given in the rejection. It is therefore respectfully submitted that Claim 5 is allowable for this reason, in addition to all of the reasons discussed above.

The Board is respectfully requested to find all of the presently pending claims to be allowable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald Levy", with a stylized flourish at the end.

Gerald Levy
Registration No. 24,419

Ronald E. Brown
Registration No. 32,200

Pitney Hardin LLP
685 Third Avenue
New York, New York 10017
212-297-5800

IX. APPENDIX OF PRESENTLY PENDING CLAIMS

1. A method for providing a line of through vent apertures to a web component of a plastic bag, said web component having a tendency to tear along lines of apertures, comprising the steps of:

providing a cutter which cuts a line of vent apertures along a first direction, said vent apertures being oriented in a second direction which is not parallel to said first direction such that the orientation of said line of vent apertures minimizes tear propagation of said web component;

providing an anvil means against which said cutter bears, thereby creating a nip; and

drawing the web component through said nip formed between said cutter and said anvil means thereby forming said line of vent apertures in the web component;

wherein said vent apertures provide ventilation to the interior of said plastic bag when said web component is attached to said plastic bag.

2. The method of Claim 11 wherein said teeth are parallel to said axis.

3. The method of Claim 2 wherein said teeth are sized and spaced so as to form apertures which allow air to pass therethrough, but which do not allow selected solids to pass therethrough.

4. The method of Claim 3 wherein said anvil means is a rotating wheel.

5. The method of Claim 4 wherein said web component is a zipper tape.

11. The method of Claim 1 wherein said cutter is a cutting wheel which rotates about an axis, a periphery of said cutting wheel including teeth which are not perpendicular to said axis.